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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRIT F. AUGBORNE,

v.

BRIAN WILLIAMS, *et al.*,

Petitioner,

Respondents.

Case No. 2:19-cv-01599-JAD-DJA

**Order Granting Motion to Clarify and
Dismissing Case**

[ECF No. 4]

Petitioner Brit F. Augborne, a *pro se* Nevada prisoner, commenced this habeas action by submitting a Petition for Writ of Habeas Corpus¹ under 28 U.S.C. § 2254, but he did not pay the \$5 filing fee or submit an IFP application for incarcerated litigants with the appropriate supporting documentation.² So I ordered him to do one of two things by October 30, 2019: (1) file an IFP application along with all required attachments or (2) pay the \$5 filing fee. In response, Augborne filed a Motion to Clarify.³ He states that he first filed a habeas petition in Case No. 2:19-cv-01204-KJD-BNW, wherein the court has granted him leave to proceed *in forma pauperis* on his petition. He says that the “two cases are one in the same,” and asks me to dismiss this case.

Augborne is in custody under a state-court judgment of conviction in Seventh Judicial District Court Case No. C-14-2989461, and the claims that he raises in this case pertain to that conviction. A review of the docket in Case No. 2:19-cv-01204-KJD-BNW confirms that the petition in this case is duplicative and serves no legitimate purpose. Any claims that Augborne wishes to pursue regarding his conviction in C-14-2989461 must be asserted, if at all, in Case

¹ ECF No. 1-1.

² 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

³ ECF No. 4.

1 No. 2:19-cv-01204-KJD-BNW.⁴ So I dismiss the instant petition without prejudice as
2 duplicative.

3 IT IS THEREFORE ORDERED that:

- 4 1. Petitioner Brit F. Augborne's Motion to Clarify (ECF No. 4) is GRANTED.
- 5 2. **This action is dismissed without prejudice as duplicative of Case No. 2:19-cv-**
01204-KJD-BNW.
- 6 3. Augborne is DENIED a certificate of appealability because jurists of reason would
not find my dismissal of this petition to be debatable or wrong.
- 7 4. The Clerk of Court is directed to MAIL Augborne one copy of the Petition for Writ of
Habeas Corpus (ECF No. 1-1) submitted in this case.
- 8 5. The Clerk of Court is further directed to ENTER FINAL JUDGMENT
ACCORDINGLY AND CLOSE THIS CASE.

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10 Dated: October 18, 2019

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14 U.S. District Judge Jennifer A. Dorsey
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25 ⁴ I make no representation that any claims Augborne might seek to add to his currently pending
26 petition would be timely or that leave to amend would be granted in that case. I hold only that, to
27 the extent Augborne wishes to pursue the claims in this petition, they may be pursued only in the
petition he has already filed and that is currently pending.